

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOHNSON COUNTY GAS COMPANY, INC.)	
)	
<hr style="width:50%; margin-left:0"/>)	CASE NO. 91-392
)	
ALLEGED FAILURE TO COMPLY WITH)	
COMMISSION ORDER FROM CASE NO. 10415)	

O R D E R

By Order dated October 30, 1990 in Case No. 10415,¹ the Commission, inter alia, authorized Johnson County Gas Company, Inc. ("Johnson County") to assess a surcharge, the proceeds of which were to be used to pay debts to Columbia Gas of Kentucky, Inc. ("Columbia") and the Department of Local Government ("DLG"). The Commission further ordered that Johnson County place all surcharge proceeds in escrow and use them exclusively to pay the Columbia and DLG debts. The surcharge was to cease immediately upon extinguishment of these debts or if the surcharge proceeds were used for any reason other than repayment of these two debts.

On April 15, 1994, the Commission in this proceeding ordered Johnson County to provide certain information related to the surcharge. Johnson County's response to this Order indicates that, while over \$300,000 in surcharge revenue should have been collected based on its sales between November 1990 and March 1994, only \$44,500 has been disbursed from the surcharge account to DLG and

¹ Case No. 10415, An Investigation of the Rates of Johnson County Gas Company, Inc.

\$5,500 to Columbia to reduce those respective obligations. Johnson County has admitted that the difference between the surcharge revenue collected and its debt payments "was used for the operation of the [C]ompany." Johnson County's Response to the Commission's Order of April 15, 1994, Item 3. Its monthly general ledger statements, moreover, indicate that all proceeds from the surcharge were not placed in escrow.

Based upon the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Prima facie evidence exists that in willful violation of the Commission's Order of October 30, 1990 Johnson County failed to deposit all surcharge proceeds into an escrow account and that it used the surcharge proceeds to fund its operations.

2. Prima facie evidence exists that Estill Branham, Johnson County's manager, procured, aided and abetted Johnson County's alleged failure to comply with the Commission's Order of October 30, 1990.

3. Pursuant to the terms of the Order of October 30, 1990, authorization to assess and collect the surcharge for payment of debts owed by Johnson County to DLG and Columbia should be terminated immediately. Johnson County should immediately cease the assessment and collection of this surcharge.

IT IS THEREFORE ORDERED that:

1. Effective immediately, authorization to assess and collect the surcharge for payment of debts owed by Johnson County to DLG and Columbia is terminated.

2. Johnson County shall cease immediately the assessment and collection of the surcharge authorized by the Commission's Order of October 30, 1990.

3. Johnson County shall appear before the Commission on July 6, 1994 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of presenting evidence concerning its alleged failure to comply with the Commission's Order of October 30, 1990, and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for its alleged failure.

4. Estill Branham, in his individual capacity, shall appear before the Commission on July 6, 1994 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of presenting evidence concerning his alleged misconduct in procuring, aiding and abetting Johnson County's alleged failure to comply with the Commission's Order of October 30, 1990, and of showing cause why he should not be subject to the penalties prescribed in KRS 278.990(1) for his alleged misconduct.

5. Johnson County and Estill Branham shall each submit to the Commission, within 20 days of the date of this Order, a written response to the allegations contained herein.

Done at Frankfort, Kentucky, this 1st day of June, 1994.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director